



CHARTER of the CITY OF DINUBA CALIFORNIA

**AS ADOPTED BY THE ELECTORATE OF THE CITY OF DINUBA AT THE
GENERAL MUNICIPAL ELECTION HELD JUNE 7, 1994.**

AND

**AS CHARTERED BY THE SECRETARY OF THE STATE FOR THE STATE
OF CALIFORNIA ON JULY 7, 1994.**

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CHARTER

Charter Chapter 6 - County of Tulare
CHARTER OF THE CITY OF DINUBA, CALIFORNIA
January 11, 1994
(Filed with Secretary of State July 7, 1994)

Preamble:

The citizens of the City of Dinuba do enact and establish this Charter in order to form a better City government for all citizens of the City, to provide for the public health, safety, welfare and morals, and to preserve and enhance the quality of life for the citizens of Dinuba, their children, their neighbors, their businesses and future citizens and businesses.

Boundaries of City:

The boundaries of the City of Dinuba shall be as now established and as may be changed in the future as provided by law by this Charter, or by ordinance.

ARTICLE I

POWERS AND DUTIES OF THE CITY

Section 1.01. Powers of the City:

The City shall have all powers possible for a city to have under the Constitutions of the United States and of the State of California and all applicable State laws as fully and as completely as though they were specifically enumerated in this Charter.

A. **General Law Powers.** Nothing in this Charter shall be construed to prevent or restrict the City from exercising or consenting to, and the City is hereby authorized any and all rights, powers and privileges heretofore or hereafter granted or prescribed by general laws of the State.

B. **Municipal Affairs.** The City may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in this Charter and applicable State Constitutional provisions and decisions of courts with compe-

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tent jurisdiction. As regards municipal affairs, this Charter shall supersede all laws inconsistent therewith.

C. Bidding and Wages. The City Council may by ordinance or resolution adopt prevailing wage, geographic boundaries and other guidelines and restrictions, including local bidding preference, governing public works and other City contract awards.

D. Intergovernmental Powers. The City may exercise any of its powers, perform any of its functions, and participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states, the State of California, the United States or any of its agencies, or any governmental agency or local government, special district, the County of Tulare, or other agency or authority created either by the State or the City or under any State or federal law or Constitutional provision.

E. Governmental Cooperation. Whenever possible it is desirable that the City cooperate with the County of Tulare through encouraging the joint delivery or consolidation of services and facilities, toward the reduction of the costs of delivering governmental services and the elimination of duplicative facilities, so long as the City is not financially disadvantaged by such cooperation or consolidation.

F. Construction. The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the powers granted the City in this Article or by this Charter.

Section 1.02. Duties and Obligations of the City:

It shall be the duty, obligation and responsibility of the City and the City Council to develop plans and programs, provide adequate financial resources for, and to implement fully such plans and programs as are necessary to accomplish the duties and obligations set out in this Section, this Charter and State and federal law.

A. Balanced City Activities. The City Council shall budget for, make provision for, and at all times provide for and maintain a balanced and full range of quality City services, activities and

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facilities to provide equitably for the quality of life for all economic, social, ethnic and age groups and geographical areas within the City.

B. Community Development. The City Council shall require the preparation of and shall adopt, comply with and enforce development standards, codes and ordinances which shall apply and be applied uniformly to each and all of public and private properties, which standards shall provide for a well-balanced community, both physically and economically.

C. Housing. The City shall make an annual review and study regarding adequate housing for all economic levels and needs of the community, and shall facilitate a balanced housing program, which shall include housing code enforcement.

ARTICLE II

MAYOR AND CITY COUNCIL

Section 2.01. City Council:

There shall be a City Council of five members. One Councilmember shall be elected by the voters in each of five council districts.

A. Registered Voters Eligible. No person shall be eligible to hold the office of Councilmember unless he/she is a legally registered voter and resident of the Council district for which election is sought at the time nomination papers are issued.

B. Regular Election. The regular election of Councilmembers shall be held on the first Tuesday after the first Monday of November in even-numbered years, in the manner provided by law.

C. Who Elected. The winner in each district is determined by the highest number of votes, whether majority or plurality.

D. Procedure for Holding Elections. Unless otherwise provided by ordinance, all City elections shall be held in accordance with the provisions of the California Elections Code insofar as such Code is not in conflict with this Charter or an ordinance adopted pursuant to this Charter.

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E. Council Election and Terms. All Councilmembers shall serve a term of four years except as set out hereinafter in this Charter.

1. A regular Council election shall be held in November of 1994 at which election voters residing in Council Districts 2, 3 and 4 shall elect Councilmembers. Elections for Councilmembers in Districts 2, 3 and 4 shall be held every four years thereafter.

2. A regular Council election shall be held in November of 1996 at which election voters residing in Council Districts 1 and 5 shall elect Councilmembers. Elections for Councilmembers in Districts 1 and 5 shall be held every four years thereafter.

F. Commencement of Term. The terms of Councilmembers shall commence as soon as possible after canvass of the election is certified, provided, however, that no Councilmember shall be installed prior to filing by said Councilmember of all disclosure or other statements required by ordinance or State law.

Section 2.02. Decennial Review:

Within 60 days of reporting the official results for the City by the United States Bureau of the Census for each decennial census of population, the Council shall create a citizens advisory Committee which, within not more than six months, shall perform the following reviews and recommend to the Council any revisions which the Committee shall feel to be necessary.

A. Council Election District Boundaries. If indicated by the decennial census results, the Committee shall develop and recommend to the Council revised boundaries for Council election districts.

1. At the time of redistricting, Council districts shall not vary in population between districts by more than two percent.

2. No change in district boundaries shall operate to disqualify an incumbent from office before expiration of the term for which such person was elected or appointed.

B. Charter Review. The Committee also shall review the City Charter and make any recommendations to the Council regarding any revisions which it may feel to be beneficial to the City. Each decennial Committee shall review the minutes and intent documents of the

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preceding Committee, and consider the appropriateness of previously considered issues.

Section 2.03. General Powers of the City Council:

All powers of the City shall be vested in the City Council, except as otherwise provided by this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by this Charter and by law.

A. Duties of the City Council: The Council shall make policy for the City and, additionally, shall be responsible to the people of Dinuba for, but not limited to the following duties and responsibilities:

1. Considering ordinances and resolutions and adopting those which it determines to be necessary for the governance, proper administration and adequate financing of the City.
2. Providing oversight of the City Manager and all municipal activities under his/her purview.
3. Carrying out all provisions of this Charter, ordinances and applicable State and federal laws.
4. Conducting such reviews and taking such actions as may be required for the effective governance and financing of the City.
5. Performing such other duties as may by State law, ordinance or resolution be assigned to the City Council, but in no way conflict with the duties of the City Manager as set out in this Charter.

Section 2.04. Mayor:

There is hereby created the office of Mayor. Only a member of the City Council shall be eligible to hold the office of Mayor. The Council shall select the Mayor, who shall serve as Mayor at the pleasure of the Council.

Section 2.05. Duties of Mayor:

The duties of the Mayor shall be assigned by the Council by ordinance, which shall include but not be limited to the duties listed in this Section.

The Mayor shall be the chief representative of the City and shall:

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A. Be responsible for public relations activities and represent the City for ceremonial purposes;

B. Preside at meetings of the Council;

C. Represent the City in intergovernmental relations, personally or by a representative designated by him/ her with the concurrence of the Council;

D. Provide leadership and marshal citizen participation in City activities and civic affairs;

E. Report to the public from time to time on the affairs of the City;

F. Recommend policy and appropriate and necessary legislation to the Council;

G. Recommend to the Council programs for the physical, economic, social and cultural development of the City;

H. Be, and possess the authority and attributes of a Councilmember;

I. Meet regularly and as appropriate with the City Manager for the purpose of providing guidance as to the intent of the policies and actions of the Council, expressing the desires of the Council and its members, and advising the City Manager relative to assuring that Council policies are implemented;

J. Jointly with the Council, at least annually, evaluate the performance of the City Manager;

K. In civil emergencies declared by the Governor of the State of California, be the head of government for the purpose of exercising emergency powers as set out in State law;

L. Possess such authority and perform such duties as are granted or required by this Charter or by the Council, which additional duties shall not conflict with any other provision of this Charter.

Section 2.06. Vice Mayor:

There is hereby created the office of Vice Mayor. The City Council shall select the Vice Mayor, who shall serve as Vice Mayor at the pleasure of the Council. In the absence of the Mayor, the Vice Mayor shall possess and perform the duties of Mayor.

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Section 2.07. City Council Compensation and Expenses:

The City Council may determine the salary and compensation of the Mayor, Vice Mayor, and Councilmembers by ordinance, but no ordinance increasing such salary shall become effective until the commencement of the terms of Councilmembers elected at the next regular Council election.

A. Expense Reimbursement. The Mayor, Vice Mayor and Councilmembers shall receive reimbursement for their actual and necessary expenses incurred in the performance of their duties of office, such reimbursement to be made pursuant to a schedule of expenses adopted by the Council by resolution, which schedule shall be applicable uniformly to the Council and all City employees and officers.

Section 2.08. Prohibitions on City Council:

No Councilmember shall hold any other City office or City employment during the term for which elected or appointed to the Council or for two years afterwards.

Nothing in this Section shall be construed to prohibit the Council from selecting any current or former Councilmember to represent the City on the governing board of any regional or intergovernmental agency.

A. Restriction on Personnel Powers. Neither the Council nor any of its members may in any manner control or demand the appointment or removal of any City department head or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint. But the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such department heads and employees.

B. Restriction on Interference With City Manager. Neither the Mayor nor any Councilmember shall interfere with the execution of the powers and duties of the City Manager. Except for purposes of inquiry, the Mayor and Councilmembers shall deal with the administrative service solely through the City Manager, and neither the Mayor nor any Councilmember shall give orders to, discipline

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or threaten any subordinate of the City Manager, either publicly or privately.

Section 2.09: Council Vacancies:

The office of a Councilmember shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by State law. Whenever a vacancy in the City Council arises, from whatever cause arising, the vacancy shall be filled by the City Council as provided herein.

A. Filling of Vacancy. Within 15 working days of the occurrence of the Council vacancy, following a published notification of such vacancy, persons who are eligible for and interested in filling the vacancy shall file a standard application with the City Clerk. On the 16th working day following the creation of the vacancy, the City Clerk shall provide to the remaining Councilmembers the applications of all eligible applicants. Within 30 calendar days of receipt of said applications the City Council shall make an appointment from among the eligible applicants.

B. Limit on Appointment. Notwithstanding Section 2.01 E hereof, no appointed Councilmember may serve more than two years prior to standing for election at the next regular municipal election.

C. Forfeiture of Office. A Councilmember shall forfeit that office if the Councilmember:

1. Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law,
2. Violates any express provision of this Charter or fails to execute or abide by any mandatory provision hereof,
3. Is convicted of a crime involving moral turpitude,
4. Fails to attend three consecutive regular meetings of the Council without being excused by the Council,
5. Fails to attend 85% (eighty-five percent) of the meetings of the Council during any twelve month period, without having been excused by the Council.

Section 2.10. Council Organization, Meetings and Rules:

The process for the selection of Mayor and Vice Mayor, the time

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and place of regular meetings, the method of calling meetings, the rules of order for the conduct of proceedings by the Council, and the selection of Vice Mayor in the event of a vacancy in that office shall be as established by ordinance.

Section 2.11. Independent Audit:

The City Council shall provide for an independent annual audit of all City financial accounts and documents and may provide for more frequent or more specialized audits as it deems necessary.

A. Auditor Limitations. All audits shall be made by a certified public accountant firm experienced in city auditing, which audit firm may not provide services to the City other than audit and allied financial reporting services for a period of five years after the conduct of any such annual audit.

B. Designation of Auditor. The Council shall select such audit firm for a period not exceeding five years, but the designation for any particular fiscal year shall be made no later than 60 days before the end of the first fiscal year to be audited. The selected firm may not succeed itself as City auditor, but may serve for five one year terms, or any combination not exceeding a total of five years.

C. Comprehensive Audit and Evaluation. The annual audit shall be comprehensive of all City departments, funds, agencies and accounts, and shall include an evaluation of the City budgeting and accounting system as to compliance with generally accepted accounting principles and modern practices for an integrated and computerized city financial management system utilizing all possible advanced data handling, accounting and control techniques and procedures.

D. Records Review. The audit also shall include an evaluation of the maintenance and retention integrity and safety of all City records and documents of all departments.

E. Treasury Review. The audit also shall include an evaluation of the safety, security, integrity and collateralization of all City deposits, investments and financial obligations, including a review of the solvency and safety of all City depositories.

F. Audit Submitted at Special Council Meeting. The annual audit and written report attendant thereto shall be submitted by the

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audit firm at a special meeting of the Council specifically called for the purpose of reviewing and approving the annual audit, which audit shall be available and open to public inspection at least ten days prior to the special meeting at which it is presented.

Section 2.12. Ordinances in General:

Ordinances adopted by the City Council shall be enacted or repealed in the form: "The City Council of the City of Dinuba hereby does ordain."

A. Form of Ordinance. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. An ordinance may be read by title only at the time of its introduction, and must be available to the public in full text when introduced.

The title of an ordinance shall reflect accurately the subject of the ordinance.

B. Adoption of Ordinance. An ordinance may be introduced by any Councilmember at any regular, special or adjourned Council meeting. The second reading and adoption of the introduced ordinance shall be conducted at a regular, adjourned, or special meeting of the Council, which meeting shall be not less than five calendar days after its introduction. The ordinance may be read by title only at second reading.

C. Ordinance Availability. The City Clerk shall be provided a copy of any proposed ordinance prior to its introduction and adoption, and shall make copies of proposed ordinances available at reasonable cost of duplication to the public or interested persons. The public shall have an opportunity to be heard on the proposed ordinance at any meeting the proposed ordinance is considered.

D. Ordinance Effect. All ordinances other than emergency ordinances shall go into effect thirty days after adoption, or such later date as may be specified in the ordinance or State law.

E. Adoption of Codes by Reference. The Council may adopt standard codes, compilations and codifications by reference, without specific verbatim publication, or codification in the City Code.

F. Publication of Ordinance. The City Clerk shall publish every ordinance adopted by the City Council, in full text or as a

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brief summary thereof, within 20 days following such adoption, in a newspaper of general circulation in the City or, if there is no newspaper of general circulation in the City, by posting in three public places.

Section 2.13. Emergency Ordinances:

To meet a public emergency affecting life, health, public welfare, property or the public peace, the City Council may adopt emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money except as provided herein for emergency appropriations.

A. Form and Manner of Emergency Ordinance. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances herein, except that it plainly shall be designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms.

B. Required Vote. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four Councilmembers if the Council consists of five members, three Councilmembers if the Council consists of only four members, and all three members if the Council consists of only three members shall be required for adoption.

C. Publication of Emergency Ordinance. After adoption, an emergency ordinance shall be published or posted in full text as prescribed for other adopted ordinances. An emergency ordinance shall become effective upon adoption or at such later time as it may specify.

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ARTICLE III

CITY MANAGER

Section 3.01. City Manager Appointment:

The City Council shall appoint a City Manager through the mechanism of an employment agreement. The City Council shall establish the duties of the City Manager by ordinance, which duties shall include but not be limited to the duties assigned by this Charter. The City Manager shall:

- A. **Serve At Pleasure.** Serve at the pleasure of the Council;
- B. **Chief Executive.** Be the chief executive and administrative officer of the City;
- C. **How Chosen.** Be chosen solely on the basis of administrative qualifications;
- D. **Salary.** Be paid a salary fixed by the Council commensurate with the responsibilities of the position;
- E. **Dismissal Hearing.** Have the right to a public hearing on any motion to remove or to suspend his/her employment, which public hearing shall be held only after provision of ten days published notice prior to the Council voting on the motion to remove or to suspend the City Manager.

Section 3.02. Restriction on Dismissal.

During a period of one hundred twenty (120) days immediately following the date of installation of any person newly elected to the Council at a regular or special City election, or of any person newly appointed to the Council, the Council shall take no action, whether immediate or prospective, to remove, suspend, request the resignation of, or to reduce the salary or benefits of the City Manager.

Section 3.03. Powers and Duties of City Manager:

The City Manager shall be responsible to the City Council for the proper administration of all affairs of the City and shall:

- A. **Appointment of Employees.** Appoint, remove and discipline all employees of the City pursuant to requirements set out in this

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Charter and an ordinance establishing a merit system of appointment and employment.

B. Delegation of Authority. Delegate the appointment, removal and discipline of subordinate employees to the department heads to which those employees are assigned, but shall approve, modify or disapprove all recommendations for such appointment, removal, and disciplinary actions to be taken against employees by department heads or other employees of the City, pursuant to the terms of this Charter and the City Personnel Ordinance.

C. Supervision of Departments. Direct and supervise the administration of all departments, offices and agencies or the City;

D. Annual Budget. Prepare annually, submit, and administer the budget, capital improvement plan and other plans and programs of the City as required by and set out in this Charter;

E. Keeping Council Informed. Keep the Council advised of the financial condition, current and future needs of the City, and make such recommendations to the Council concerning the affairs of the City as he/ she shall deem necessary or desirable;

F. Enforcing Laws and Contracts. Provide for enforcement and faithful execution of all laws, regulations and rules of the City, all Charter provisions, all acts of the Council, and administration of all contracts to which the City is a party;

G. Annual Report Submission. Submit to the Council and make available to the public a comprehensive annual financial and administrative report on the finances and activities of all City departments and agencies. The report also shall contain appropriate data and analyses to make an functional, evaluative and comparative appraisal of the City's finances, management and operations relative to other California cities with similar demographics and characteristics.

H. Making of Quarterly Reports. After the end of each quarter of the fiscal year, submit to the Council a financial and management report showing the relation between budgeted and actual revenues and appropriations, expenditures and encumbrances to date.

I. Initiating Reports. Make such other reports to the Council as it may require or the City Manager may desire, concerning the

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needs and operations of City programs, departments, offices and agencies;

J. **Restrictions.** Engage in no incompatible business, occupation or activities;

K. **Receive Notices.** Receive notice of all meetings of the City Council, and all City boards, committees, and commissions;

L. **Participating in Meetings.** Be entitled to participate in the deliberations of any City board, committee, and commission, but shall have no vote therein;

M. **Attending Meetings.** The City Manager shall be entitled to attend all Council meetings, both public and closed, and shall have the right to take part in all discussions held at all such meetings, but shall have no vote. The City Manager is not entitled to attend any closed session of the Council when dismissal of or other disciplinary actions involving the City Manager are discussed;

N. **Other Duties.** Perform such other duties consistent with this Charter as may be required by the Council.

Section 3.04. City Manager's Office:

The City Manager may appoint such assistants as he/she determines to positions authorized by the Council. Such assistants shall:

A. **Service of Assistants.** Serve at the pleasure of the City Manager and, for the purposes of terms and conditions of employment, shall be considered to be department heads.

B. **Duties of Assistants.** Have such powers and perform such duties as are specified by the City Manager.

C. **Acting City Manager.** The City Manager shall in writing by letter filed with the City Clerk, designate an Acting City Manager on those occasions the City Manager will be absent from the City for longer than 48 hours. The Council shall designate an Acting City Manager in the event of the disability of or at the request of the City Manager.

ARTICLE IV

DEPARTMENTS, AGENCIES AND EMPLOYEES

Section 4.01. Departments and Department Heads:

The City Manager shall recommend and the City Council shall by ordinance create, reorganize and abolish departments and divisions thereof as necessary for the effective management of the City, in addition to those created by this Charter.

A. **Department Head Appointments.** The City Manager shall appoint a head of each department, which person shall be qualified in the field of expertise encompassed within the department of assignment.

B. **Department Head Removal.** All department heads shall serve at the pleasure of the City Manager and be subject to his/her direction and supervision.

C. **Requirements.** All department heads shall be City employees for the purposes of powers and duties, and be provided employment agreements by the City Manager setting out the terms and conditions of employment, pay, benefits, goals and objectives, a requirement for periodic and regular performance evaluations, obligations, and termination. Such agreements shall include a one year probationary period, may not exceed four years and shall be a public record.

D. **Restrictions.** No department head may engage in any incompatible business, occupation or activity.

Section 4.02. City Clerk:

The office of City Clerk is hereby created. The City Clerk shall be a department head and may be either full or part time.

A. **Duties of City Clerk.** The duties of the City Clerk shall be to act as Clerk to the City Council and all other City agencies and authorities, to fulfill all duties thereof enumerated in this Charter, to maintain the integrity of and to provide for public access to, safety of, and inspection of all City public records, and to perform all duties required of a City Clerk by State law.

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B. Document Provision Duty. Within ten days following the adoption of the resolution certifying the results of a municipal election at which Councilmembers are elected, the City Clerk shall provide each newly elected Councilmember with a copy of each of the City Charter, City Code, City budget, last annual audit, last annual and current City Manager reports, and any other readily available materials which contains information which will facilitate the knowledge of the Councilmember on assumption of office.

Section 4.03. City Attorney and Legal Services:

The office of City Attorney is hereby created. The City Attorney shall be a department head and may be either full or part time. The City Attorney shall be the chief legal officer of the City, whose duties shall include but not be limited to:

A. Duties. Advising the City Council, individual Councilmembers, the City Manager and his/her assistants, and department heads regarding the law relating to City affairs.

B. Additional Duties. Representing the City in legal proceedings, prepare all ordinances and other needed legal documents, select and retain specialist counsel when and where there is a need for such specialized legal services, and perform such other duties as may be prescribed by ordinance.

C. Approval of Contracts. Review and approve all City contracts as to legal form.

D. Special Counsel. The City Council may retain special counsel when representation by the City Attorney would create an impermissible conflict.

Section 4.04. Personnel System:

The City Council shall provide by ordinance for the establishment, regulation and maintenance of a personnel system governing those City human resource policies and procedures necessary to effective administration of the employees of the City.

The ordinance creating the personnel system shall include, but not be limited to the following:

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A. Personnel System Components. An integrated classification and pay plan, selection processes, force reduction, working conditions, provisional and exempt appointments, discipline and dismissal, in-service training, grievances, relationships with employee organizations, regular and periodic employee performance evaluations, and incentive plans.

B. Employee Selection. Open, publicly posted, and competitive employee selection processes utilizing, where and when feasible, validated examinations at entry level and objective evaluative processes for all other classifications.

C. Fair Employment Practices. The City personnel system shall in all manner and respects comply fully with all federal and State laws governing fair employment practices and prohibiting discrimination in all forms and, further, may extend fair employment practices into such areas beyond federal and State law as deemed to be legal and appropriate to the end that a liberal interpretation of the terms "fair employment" and "non-discrimination" in personnel matters shall be applied by the City, and by courts of competent jurisdiction to the City.

Section 4.05. Planning Commission:

There shall be a Planning Commission of five members, with one appointed from each Council district, and resident of that district, each of whom must be a registered voter of the City. The powers, duties, qualifications, removal, and compensation, if any, of the Commission shall be set by ordinance.

Section 4.06. Boards, Commissions and Committees:

The City Council may by resolution or ordinance create other boards, commissions and committees and prescribe their powers and duties, determine the number and qualification of the members, their method of selection, term of office and removal, and fix their compensation, if any.

A. Limitation. All boards and commissions only shall be advisory to the Council, and may not exercise any administrative or management powers.

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B. Preference. Preference shall be given to Councilmanic district representation on all boards, commissions and committees.

ARTICLE V

FINANCIAL PROCEDURES

Section 5.01. Property Tax Limits and Procedure:

The City Council may not levy a property tax for general municipal purposes in excess of the maximum rate applicable to the City on the effective date of this Charter, provided, however, that a property tax in excess thereof may be levied if authorized by the State Constitution or State law, and if authorized by the affirmative votes of a majority of the City's voters voting on a proposition to increase such levy and, provided further, that any such tax must comply with all applicable provisions of this Charter.

A. Statement on Years of Levy. The number of years that any such additional levy is to be made shall be specified in any such proposition.

B. Separate Taxing Areas. Nothing herein contained shall preclude the Council from establishing separate taxing areas within the City for the levy of a tax in excess of such maximum rate if authorized by the State Constitution, State law, by ordinance, or by the affirmative votes of a majority of the voters within the area voting on a proposition to impose or to increase such levy.

C. Procedure for Assessment. The procedure and authority for the assessment, levy and collection of taxes may be prescribed by ordinance and, in the absence of such an ordinance the procedure and authority applicable thereto shall be that prescribed by State law.

Section 5.02. Restrictions on Revenues and Taxes:

The Council shall maintain a revenue structure adequate to meet City financial requirements for execution of the balanced programs determined by the City Council necessary to carry out the duties, obligations and mandates of this Charter, which revenue structure shall be balanced equitably between taxes, fees, utility and enterprise

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charges, and assessments, and comply with the judicially-determined requirements, definitions and intent of California Constitution Articles XIII A and XIII B.

A. Tax Limit. No City tax shall be imposed or increased in rate by the City Council without an affirming vote of a majority of the voters.

B. Adjustment to Tax Limit. The City Council shall have the authority to increase taxes without the affirming vote set out in subsection A hereof to raise revenues to the level that City revenues existed in fiscal year 1988-1989 but which, during or subsequent to such year, were removed from the City by action of the State or federal governments; provided, however, that should the State or federal governments reinstate such previous City revenues then, to the extent of the reinstatement, City taxes shall be reduced.

C. Adjustment for Mandates. No affirming vote as set out in subsection A hereof shall be required for any tax increase in amount sufficient to meet the official estimate of cost for any State or federal service mandate for which no State or federal revenue or grant has been provided, for which neither of a fee or charge may be collected in amount adequate to meet the financial requirements of the mandate.

D. Adjustment for Court-Ordered Judgements. No affirming vote as set out in subsection A hereof shall be required for any tax increase in amount sufficient to meet the payment terms of any court judgement, order or court-ordered payment to be made by the City, provided, however, that any tax imposed or increased to fund any such court judgement or order shall be discontinued when such judgement or order is satisfied in full.

E. Adjustment for Inflation and Deflation. For computational purposes of this Section, tax rates and revenue amounts shall be adjusted annually, starting with fiscal year 1988-1989, by the California Constitution Article XIII B and Proposition 111 annual percentage increase in appropriation limitation applicable to the City.

Section 5.03. Special Funds:

The City Council shall by ordinance provide, and the annual

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budget shall make adequate provision for reserve accounts in each fund, or a special fund, for emergencies, uninsured losses, unfunded liabilities, pollution and adverse environmental conditions, depreciable fixed asset replacement, utility and enterprise facility perpetual replacement, and any other such reserves as the City Manager might recommend and the City Council approve.

A. Reserve Computations. The annual financial report and budget shall be supported by statements and computational schedules providing the basis for, support for and use of all reserve accounts and funds hereby required, and as additionally may be established.

B. Inviolable Funds. Such special funds and accounts shall remain inviolate for the purpose for which they were created unless the use of any such fund or account for some other purpose is authorized by an ordinance adopted by vote of four members of the Council after holding of a noticed and advertised public hearing.

Section 5.04. Annual Review of Costs and Fees:

A. Annual Public Meeting. Annually at a public meeting, held during consideration of the annual budget, the Council shall review the costs of all City services and set fees it shall determine appropriate to recover costs thereof as it shall determine, pursuant to the provisions of Article XIII B of the State Constitution and applicable State laws.

B. Fee and Rate Setting. The City Council may review, determine and set fees and charges for City services as necessary, but all such City fees and charges shall be reviewed publicly annually per the provisions of subsection A. of this Section.

Section 5.05. Purchasing and Contracting:

The City Council shall by ordinance provide for a purchasing and contracting system assuring a maximum of competition for the lowest price consistent with a stated level of quality. The purchasing and contracting system shall provide for but not be limited to:

A. Delegation of Authority. Control of the system by the City Manager, who shall be empowered to make purchases and to award

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contracts for amounts of \$25,000 or less, annually adjusted in amount as set out herein in Subsection C;

1. Delegation of responsibility by the City Manager to any appointed subordinate;

2. A requirement that should contracts or purchases in amount of \$25,000 or less be awarded to any one vendor or contractor cumulatively totalling \$75,000 in any three year period then, in that event, the competitive process set out herein shall be followed prior to the award of subsequent contracts should such process otherwise be required;

3. An informal bid solicitation process for purchases and contracts in amount between \$25,001 and \$74,999;

B. Award of Contracts and Purchases. Award of contracts and purchases to the lowest responsible bidder or vendor meeting specifications, except as provided herein and in the ordinance;

C. Sealed Competitive Bids. Sealed bids for competitive purchases involving the expenditure of \$75,000 or more, but this amount and all dollar amounts set out in this Section shall be revised by the Council annually as part of the annual budget by a revision factor determined by utilizing published reliable indicators or indices of price changes;

D. Waiver of Bids. Waiver of competitive bidding for purchase of non-competitive items and contracting for services, in emergencies, for copyrighted and patented items and services, and for professional or specialized services for which a written finding is filed with the City Clerk regarding the reason for non-competitive, emergency or sole source acquisition;

E. Prohibition. Prohibition of splitting contracts or purchases to avoid dollar limits;

F. Rejections. Rejection by the Council of any and all bids;

G. Bid Bonds. Requirement of a bid bond or cashiers check for all sealed bids;

H. Public Notification. Full public notification of all calls for sealed bids by provision of ten (10) days notice through appropriate publications;

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I. Public Works Determinations. Determination of which public works or improvement projects are to be performed by City forces and which are to be let to contract;

J. Other Matters. Other matters as shall be determined to be required by the Council.

Section 5.06. Budgeting and Accounting:

The City Council by ordinance shall provide for, assure implementation of, and enforce an integrated budgeting and financial management system for the City, for which a balanced budget shall be a requirement for each fund and agency and which shall provide but not be limited to the following:

A. Fiscal Year. The establishment of the time span of a fiscal year.

B. Annual Budget. An annual budget and budget message document by the City Manager for the ensuing fiscal year shall be submitted on or before the first working day of the next to last month of the current fiscal year. The budget message shall explain the fiscal content and work programs of the budget.

C. Comprehensive Financial Plan. The budget shall provide a complete financial plan for all City funds, agencies and activities for the ensuing fiscal year. The budget document shall contain summaries and totals adequate to provide a comprehensive and consolidated view of the City's financial condition;

D. Contents of Budget. Sections of the budget shall provide for and contain:

1. The goals and objectives proposed to be achieved by appropriations for current operations during the ensuing year, detailed for each fund by organization unit, program, purpose or activity, and the method of financing such proposed appropriations;

2. Comparative amounts for actual and estimated income and expenditures for the current fiscal year and actual income and expenditures for the preceding fiscal year;

3. Proposed capital expenditures during the ensuing fiscal year, detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure, and;

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4. Anticipated income, expense, balances and reserves, and the purpose of said reserves, for each utility, enterprise, reserve and internal service fund;

E. Budget Adoption. The Council shall adopt the annual budget by affirmative vote of a majority of its members, on or before the last working day of the last month of the current fiscal year. If it fails to adopt the budget by this date the budget proposed by the City Manager shall be deemed adopted;

F. Supplemental Appropriations. Prior to the City Council making any supplemental appropriation the City Manager shall certify that monies in excess of those estimated in the budget are available for appropriation;

G. Emergency Appropriations. The City Council may, by the affirmative vote of at least four Council members if the Council consists of five members, three Councilmembers if the Council consists of only four members, and all three members if the Council consists of only three members shall be required to make appropriations to respond to a public emergency affecting life, health, public welfare, property or the public peace. Emergencies defined by State law shall be excluded from this restriction;

H. Overexpenditures Prohibited. The total of proposed expenditures shall not exceed the total of estimated revenues plus carried forward fund balance, exclusive of reserves, for any fund, and in any event the status of the City budget and finances shall in all respects at all times be in compliance with State Constitution Article XVI, Section 18.

I. Appropriations Reductions. Appropriations shall be reduced during the fiscal year by the Council or City Manager if it appears probable to either that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized. When appropriations are reduced the City Manager shall report to the next Council meeting the estimated amount of the deficit, any remedial actions taken, and recommendations as to any other steps to be taken;

J. Budgetary Transfers. The City Manager may transfer monies between departments, divisions, programs and accounts

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within funds and departments, but within dollar or percentage of fund limits set by the Council annually as a part of the budget, but only the Council by resolution may transfer monies between funds and from unappropriated balances or fund balances to any fund or appropriation account. All budgetary transfers made by the City Manager shall be reported in writing quarterly to the Council;

K. Lapse of Appropriations. Every appropriation, except for capital expenditures, shall lapse at the end of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised, or repealed. The purpose of any such capital appropriation shall be deemed abandoned after three years pass without disbursement from or encumbrance against the appropriation;

L. Capital Improvement Plan. A capital improvement plan and budget encompassing five or more years shall be prepared and presented, or updated, by the City Manager and presented to the Council each year. The capital improvement plan shall include but not be limited to the following:

1. A general summary of its contents;
2. A list of all capital improvements and other proposed capital projects which are proposed to be undertaken during the term of the capital improvement plan, with appropriate supporting information as to the necessity for each proposed project or acquisition;
3. Cost estimates and recommended time schedules for each improvement or other capital expenditure;
4. Method of financing for each proposed capital project;
5. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;

M. Capital Plan Adoption. The Council shall adopt the capital improvement plan by resolution on or before the beginning of the first fiscal year covered by the plan, and revisions annually as a part of the annual budgetary process.

N. Public Document. Copies of the annual budget, annual financial report, the capital improvement plan, and all appropriate summarizing documents shall be filed with the City Clerk as perma-

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nent public records, and shall be made available to the public for inspection and review.

O. Public Hearing Required. Each of the annual budget and the capital improvement plan shall be the subject of a City Council public hearing. Ten days posted notice shall be provided for said hearings.

Section 5.07. Debt:

The City by ordinance or resolution may issue all manner of securities and incur all manner of indebtedness, but within the following limits:

A. General Obligation Bond Limit. Indebtedness of the City as evidenced by issued general obligation bonds shall at no time exceed ten percent of the assessed valuation of all property taxable by the City;

B. Other Debt Limit. Indebtedness of the City, other than voted general obligation bonds and securities having a dedicated utility, enterprise or special agency or authority revenue source or pledge, shall at no time exceed ten percent of the assessed valuation of all taxable property within the City.

C. Definition and Exemption. The term "indebtedness" as used in subsections A and B of this Section shall not include bonds or other obligations denoting indebtedness issued for the purpose of financing or refinancing the acquisition, construction, or completion of public improvements, the payment of which is not a general obligation of the City, and which is secured by a lien upon or levy of a special tax or assessment on property within an identified geographic area or district.

Section 5.08. Depositories and Investments:

The Finance Department shall receive and account for all revenues, monies and assets received by the City or any of its agencies from any and all sources.

A. Custody of Monies. The Finance Department shall have custody of all City monies and investments and shall deposit all monies and investments in such depository or depositories as may

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be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository or depositories designated in writing by the City Manager on recommendation of the Finance Director.

B. Security of Deposits and Investments. The depository resolution shall provide for the regular deposit of City monies and appropriate safeguards and systems to assure a minimum of risk, maximum safety, and a high level of collateralized or federally insured security, without exception, for such City monies and securities held by any depository, agent or agency.

C. State Law Governs Investments. All depositories and investments at all times shall be in compliance with all provisions of the State Constitution and laws of the State governing the handling, deposit and security of public monies, but such deposit security may exceed those limits set by State law.

D. Written Investment Policy. Investment of monies held by the City and any of its agencies shall be made pursuant to policy recommended by the Finance Director, approved by the City Manager, and set by resolution of the City Council. Such policy shall provide for the preservation and safety of principal and integrity of record keeping.

Section 5.09. Financial Reporting for Grants:

All groups, agencies and organizations which are not under the direct control of the City, or which do not have a contract with the City requiring performance and reporting to the City, which group, agency or organization receives a grant, donation or contribution from the City in excess of one thousand dollars in any fiscal year, shall file a written request and an annual written report with the City disclosing how the grant, donation or contribution was expended. At the discretion of the City Council this requirement may be applied to lower amounts of grants, donations or contributions.

Section 5.10. Miscellaneous Fiscal Procedures:

The City Council shall by ordinance provide for the following,

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and other appropriate and necessary financial procedures, which procedures shall comply with State law unless the ordinance specifies otherwise:

A. **Petty Cash.** The creation and administration of petty cash accounts;

B. **Claims and Demands.** Claims and demands against the City;

C. **Warrants and Checks.** Issuance and redemption of warrants and checks drawn on the City treasury, and;

D. **Actions.** Actions against the City.

ARTICLE VI

ELECTIONS

Section 6.01. Election Procedures:

Unless otherwise provided by ordinance, all elections shall be held in accordance with the provisions of the State Elections Code for the holding of municipal elections, so far as the same are not in conflict with this Charter.

A. **Special Elections.** The Council may call special elections for such purposes as the Council may prescribe. A special election may be held on any date specified by the Council.

B. **Initiative, Referendum and Recall.** The electors of the City reserve to themselves the powers of initiative and referendum and the recall of elective officers, to be exercised in the manner prescribed by State law.

ARTICLE VII

GENERAL PROVISIONS

Section 7.01. Conflicts of Interest:

The use of public office for private gain is prohibited. The City Council shall implement this prohibition by ordinance adopting and assuring compliance with the laws of the State of California regard-

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ing such conflicts, which ordinance also shall prohibit, but not be limited to prohibiting only the following:

A. **Appearances For Influence.** Appearances by or statements made to, or influence exercised by City officials or employees to, before or to any City officer or department or other City agencies on behalf of private interests;

B. **Compensated Influence.** A former Councilmember or City officer or employee being compensated in any way for attempting to influence any action of the Council or City for two years after the end of service on the Council or with the City.

C. **Violations.** In addition to any fines or other punishments for violations of conflict of interest regulations, any person convicted of a violation of this Section shall be ineligible for a period of five years following such conviction to hold any City office or employment and, if an officer or employee of the City, immediately shall forfeit his or her office or position.

Section 7.02. Franchises:

The City Council may grant a franchise to any person, partnership, corporation or other legal entity capable of exercising the privilege conferred, whether operating under an existing franchise or not, and may prescribe the terms, conditions and limitations of such grant, including the compensation to be paid to the City therefor.

A. **Franchise Ordinance.** The Council may prescribe by ordinance the method and procedure for granting franchises, together with additional terms and conditions for making such grants.

B. **Franchise Procedure.** No person, partnership, corporation or other legal entity shall furnish the City or its inhabitants or properties lying within the City limits, or any portion of the City, with any service which uses any portion of the public streets, ways, easements, alleys or places in the City as the same now exist or may hereafter exist, for any purpose without a City franchise secured under the procedures set out hereunder, except insofar as he/she or it may be entitled to do so by direct authority of the California

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Constitution, the Constitution or laws of the United States, or final decisions of courts of competent jurisdiction.

Nothing in this subsection B shall be construed to limit the ability of the City to seek, to accept and to grant easements for specific purposes over specific parcels of public property for limited purposes.

C. Franchise Term. No franchise shall be granted for a period of longer than 25 years unless there be reserved to the City the right to take over at any time the works, plant and property constructed under the grant at their depreciated physical valuation and without compensation for franchise or goodwill.

D. Acquisition of Properties. No franchise shall in any way or to any extent impair or affect the right of the City to acquire the property of the possessor thereof by purchase or condemnation, and nothing therein shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to the property of the possessor of any franchise.

E. Franchise Condition. Every franchise granted by the City is granted upon the condition, whether expressed in the grant or not, that such franchise shall not be given any value before any court or other public authority in any proceeding of any character in excess of any amount actually paid by the grantee to the City at the time of the grant.

F. Resolution of Intent. Before granting any franchise, the Council shall adopt a resolution declaring its intention to grant same and stating the name of the proposed grantee, the character of the proposed franchise, and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix the day, hour and place when and where any person having an interest in or objecting to the granting of such franchise may appear before the Council to be heard thereon. Said resolution shall be published at least once, not less than ten days prior to said hearing, in the official newspaper.

G. Franchise Adoption. After hearing all persons desiring to be heard, the Council may deny or, by ordinance may grant the franchise on the terms and conditions specified in the resolution. No

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ordinance granting a franchise shall be adopted as an emergency ordinance.

Section 7.03. Definitions:

Unless the provision or the context otherwise requires, as used in this Charter:

- A. "Shall" is mandatory and "may" is permissive.
- B. "City" is the City of Dinuba and "department," "commission," "agency," "authority," "officer," or "employee" is a department, commission, agency, authority, officer, or employee, as the case may be, of the City of Dinuba.
- C. "Council" is the City Council of the City of Dinuba.
- D. "Councilmember" is a member of the City Council.
- E. "Law" includes ordinance.
- F. "State" is the State of California.
- G. "Federal" is the government of the United States of America.
- H. "Voter" shall be as defined by State law.

Section 7.04. Violations:

A. **Misdemeanors and Infractions.** A violation of any ordinance of the City shall constitute a misdemeanor unless by ordinance it is made an infraction. The maximum fine or penalty for a misdemeanor or infraction shall be the same as established by the general laws, unless a contrary intention is expressed in the ordinance.

B. **Enforcement.** Such violation may be prosecuted in the name of the People of the State of California or redressed by civil action.

C. **Charter Compliance.** Compliance with any mandated duty prescribed in this Charter may be had through civil action or, if appropriate, criminal proceedings.

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ARTICLE VIII

CHARTER AMENDMENT

Section 8.01. Charter Amendment:

Amendments to this Charter shall be approved by a majority of the voters of the City at a regular election as set by State law, or by this Charter.

A. **How Amended.** An amendment to this Charter may be framed and proposed in any manner provided by law, or by any of:

1. An ordinance of the City Council containing the full text of the proposed amendment;
2. A report with specific full text as prepared by a duly elected Charter Commission as created pursuant to State law;
3. An initiative by the voters of the City.

B. **Amendment Election.** If a majority of the registered voters of the City voting upon a proposed Charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment, but if no time is therein fixed, at the time the approved amendment is filed with the Secretary of State by the City Clerk and chaptered by the State. The City Clerk shall file the results of a Charter amendment election with the Secretary of State within forty-five days following the election.

ARTICLE IX

TRANSITION/SEVERABILITY

Section 9.01. Transition/Severability Provision:

All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes effective shall remain in effect until repealed, except to the extent that they are inconsistent, disagree in any respect with, or interfere with the effective operation of this Charter or of ordinances adopted pursuant hereto.

A. **Severability of Provisions.** If any provision of this Charter is held to be invalid the other provisions of the Charter shall not be

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affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid the application of the Charter and its provisions or circumstances shall not be affected thereby.

Section 9.02. Transition of Current Elected Officials:

At the time of the adoption of this Charter Councilmembers then serving shall serve until the end of the term for which they have been elected, and until their successors have been elected and qualified.

Section 9.03. Continuity of Laws, Officers & Employees:

The City shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it on the effective date of this Charter, and shall be subject to all its debts, obligations and liabilities.

A. Continuation of Acts. All lawful ordinances, resolutions, and rules and regulations in force on the effective date of this Charter and not in conflict or inconsistent herewith are continued in force until repealed or amended.

B. Continuation of Officers and Employees. The present officers and employees of the City shall retain their respective offices and employments subject to the provisions of this Charter.

C. Non-Interference With Federal Court Order. Nothing herein shall be construed to interfere with or to modify that certain order entered by the Federal District Court of the Eastern District of California on June 10, 1993 applying the United States Voting Rights Act to the City of Dinuba.

CHARTER

PROPOSED AND SUBMITTED BY THE CITY COUNCIL OF
THE CITY OF DINUBA, CALIFORNIA FOR VOTER APPROVAL
on this 11th day of January, 1994.

Raymond K. Millard, Mayor

Barbra Lankford, Vice Mayor

John de la Montanya, Councilmember

Rachel Morales, Councilmember

Gene Gomez, Councilmember

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CITY OF DINUBA CITIZENS CHARTER ADVISORY COMMITTEE

Recommended to the City Council for adoption and placement on the June 7, 1994 election ballot:

Janelle Cochran

Jack Mullen

Antonio Contreras

Steve Nelson

Ray Dall

Victor Rojas

Steve Debuskey

Virginia Tapia

Joe Alvarado

Joan Truitt

Jose Gomez

Dave Ysusi

Larry Gotfredson

Glen Zimmerman

Margaret Lopez

CHARTER

STAFF TO DINUBA CHARTER COMMISSION, DINUBA CITY COUNCIL, AND DINUBA CITIZENS CHARTER ADVISORY COMMITTEE:

J. Edward Todd, City Manager

Evelyn Zerger, Deputy City Clerk

Dan McCloskey, City Attorney

Douglas W. Ayres, Executive Director
Dinuba Charter Commission
Dinuba Citizens Charter Advisory Committee

Pamela S. Swift, Deputy Executive Director and Secretary
Dinuba Charter Commission
Dinuba Citizens Charter Advisory Committee

CHARTER

STATE OF CALIFORNIA)	MAYOR'S CERTIFICATE
COUNTY OF TULARE)ss	OF AUTHENTICATION
CITY OF DINUBA)	

I, Raymond K. Millard Mayor of the City of Dinuba DO HEREBY CERTIFY the foregoing is a full, true and correct copy of the Dinuba City Charter.

Raymond K. Millard
Mayor of the City of Dinuba

STATE OF CALIFORNIA)	CLERK'S CERTIFICATE
COUNTY OF TULARE)ss	OF AUTHENTICATION
CITY OF DINUBA)	

I, Evelyn Zerger, Deputy City Clerk of the City of Dinuba, DO HEREBY CERTIFY the foregoing is a full, true and correct copy of the Dinuba City Charter and was duly adopted by the City Council of the City of Dinuba at a regular meeting thereof held on the 11th day of January, 1994 and was adopted by the voters of Dinuba at a Special Municipal Election on June 7, 1994.

Deputy City Clerk
City of Dinuba, California

